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Attorney or Party Name, Address, Telephone and Fax Number, and CA State Bar No.		FOR COURT USE ONLY	
James C. Bastian, Jr. - Bar No. 175415 Mark Bradshaw - Bar No. 192540 MARSHACK SHULMAN HODGES & BASTIAN LLP 26632 Towne Centre, Suite 300 Foothill Ranch, California 92610 Telephone: (949) 340-3400 Facsimile: (949) 340-3000		FILED 01 OCT 12 PM 2:49 CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA BY _____ DEPUTY	
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA			
In re: ZYAN COMMUNICATIONS, INC., Debtor(s).		CASE NO.: LA 00-43483 KM	

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: Sale Date To Be Set - Hearing on Motion Set for November 14, 2001	Time: 11:00 A.M.
Location: U.S. Bankruptcy Court, 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012	

Type of Sale: ☒ Public ☐ Private Last date to file objections: **October 31, 2001**

Description of Property to be Sold: See the attached Notice of Hearing on Debtor's Motion for Order Establishing Procedures for the Sale and Other Disposition of Certain Miscellaneous Assets et al. (the "Hearing Notice")

Terms and Conditions of Sale: See the attached Hearing Notice

Proposed Sale Price: See the attached Hearing Notice

Overbid Procedure (If Any): See the attached Hearing Notice

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:
November 14, 2001 at 11:00 A.M.

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):
James C. Bastian, Jr., Esq.
Marshack Shulman Hodges & Bastian LLP
26632 Towne Centre, Suite 300, Foothill Ranch, CA 92610
Telephone: (949) 340-3400
Facsimile: (949) 340-3000

Date: October 8, 2001

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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION**

In re

ZYAN COMMUNICATIONS, INC.,
a Delaware corporation, fdba
INTERNET EXPRESS NETWORK, INC.,
fdba **INTERNET DESIGN GROUP,**

Debtor.

Debtor's Address:
707 Wilshire Boulevard, 14th Floor
Los Angeles, CA 90017

Tax I.D. No. 95-4570574

Case No. LA 00-43483 KM
Chapter 11

**NOTICE OF HEARING ON DEBTOR'S MOTION
FOR ORDER ESTABLISHING PROCEDURE FOR
THE SALE AND OTHER DISPOSITION OF
CERTAIN MISCELLANEOUS ASSETS UPON
LIMITED NOTICE AND WITHOUT FURTHER
ORDER OF THE COURT**

Date: November 14, 2001
Time: 11:00 A.M.
Place: Courtroom 1468
Edward R. Roybal Federal Bldg.
255 E. Temple Street
Los Angeles, CA 90012-3300

PLEASE TAKE NOTICE that the Notice of Hearing on the Motion for Order Establishing Procedure for the Sale and Other Disposition of Certain Miscellaneous Assets upon Limited Notice and Without Further Order of the Court (the "Disposition Motion") filed by Zyan Communications, Inc., showed an incorrect time. **THE CORRECT TIME FOR HEARING ON THE DISPOSITION MOTION IS NOVEMBER 14, 2001, AT 11:00 A.M.,** in Courtroom 1468 of the above-entitled Court located at 255 East Temple Street, Los Angeles, California 90012.

Dated: October 1, 2001

James C. Bastian, Jr. - Bar No. 175415
Mark Bradshaw - Bar No. 192540
MARSHACK SHULMAN HODGES & BASTIAN LLP
26632 Towne Centre, Suite 300
Foothill Ranch, California 92610-2808
Telephone: (949) 340-3400
Facsimile: (949) 340-3000



James C. Bastian, Jr.
Mark Bradshaw
Attorneys for the Debtor and
Debtor in Possession Zyan Communications, Inc.,
a Delaware corporation

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION

In re

ZYAN COMMUNICATIONS, INC.,
a Delaware corporation, fdba
INTERNET EXPRESS NETWORK, INC., fdba
INTERNET DESIGN GROUP,

Debtor.

Debtor's Address:
707 Wilshire Boulevard, 14th Floor
Los Angeles, CA 90017

Tax I.D. No. 95-4570574

Case No. LA 00-43483 KM
Chapter 11

**NOTICE OF HEARING ON DEBTOR'S MOTION FOR ORDER
ESTABLISHING PROCEDURE FOR THE SALE AND OTHER
DISPOSITION OF CERTAIN MISCELLANEOUS ASSETS
UPON LIMITED NOTICE AND WITHOUT FURTHER ORDER
OF THE COURT**

Date: November 14, 2001
Time: 10:00 A.M.
Place: Courtroom 1468
Edward R. Roybal Federal Bldg.
255 E. Temple Street
Los Angeles, CA 90012-3300

PLEASE TAKE NOTICE that a hearing on the Motion for Order Establishing Procedure for the Sale and Other Disposition of Certain Miscellaneous Assets upon Limited Notice and Without Further Order of the Court (the "Disposition Motion") filed by Zyan Communications, Inc., a Delaware corporation, the debtor and debtor in possession herein ("Debtor" or "Zyan") has been scheduled for **November 14, 2001, at 10:00 A.M.**, in Courtroom 1468 of the above-entitled Court located at 255 East Temple Street, Los Angeles, California 90012.

A. Background Leading to Bankruptcy Filing

The Debtor filed a petition under Chapter 11 of the Bankruptcy Code on December 1, 2000 (the "Petition Date"), and has continued in the possession of its property and the management of its affairs.

Prior to the Petition Date, Zyan was a leading, national digital subscriber line ("DSL") service provider focused on delivering broadband services to the business market. As a result of developments since the Petition Date, including the Debtor's inability to provision new DSL lines and the fact that numerous of its customers have filed for bankruptcy protection, the Debtor projected that it was spending more money each month than it generated. Accordingly, the only option available to the Debtor is the orderly sale of its operating assets. The Debtor has undertaken extensive efforts to consolidate operations, and to reduce overhead and operating costs to a minimum level necessary to maintain and preserve the value of assets until they can be sold. The Debtor has already sought and obtained Court approval for the sale of the Debtor's most valuable assets.

In order to continue to consolidate and wind down its operations in the most cost effective manner, the Debtor seeks an order from the Court allowing the Debtor to sell or otherwise dispose of the miscellaneous non-essential assets pursuant to the procedures describe below. The miscellaneous assets can generally be described as used office furniture and equipment. Attached as **Exhibit "A" to the Declaration of Crosby Haffner filed with the Disposition Motion** is a list of the miscellaneous assets the Debtor is currently advertising for sale to its competitors, vendors and other parties which may be interested in purchasing the assets.¹

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¹ The creation of this list is an ongoing work in process and may be supplemented as additional furniture and equipment is identified to be sold. Any such additional assets will be similar in nature and value to the items contained on the attached list.

B. The Proposed Procedures for the Sale or Other Disposition of Assets

In order to maximize the efficient administration of the Debtor's estate, the Debtor proposes that the following procedures be implemented with respect to the disposition of physical assets (the "Miscellaneous Assets Sale Procedures"):

a. Sale of Assets Where Price is \$25,000 or Less. Where a proposed sale involves an asset for which the Debtor's original purchase price was \$25,000 or less or which has a fair market value as estimated by the Debtor of \$25,000 or less, the Debtor shall be able to sell such asset without further Court order upon five (5) business days written notice to the Office of the United States (the "UST"), counsel for the Secured Parties (defined below) and counsel for the Official Committee of Unsecured Creditors (the "Committee") (the UST, the Secured Parties and the Committee are collectively referred to herein as the "Noticing Parties"). Where the asset to be sold is subject to one or more lease agreements, the Debtor will also be authorized to assume and assign such related leases and/or executory contracts pursuant to Bankruptcy Code Section 365(a) without further Court order upon five (5) business days written Notice to the Noticing Parties and upon the Lessor whose collateral is being sold which collateral shall only be sold with the consent of the Lessor. The notice of the sale to the Noticing Parties and the Lessors may be effectuated by facsimile transmission or other written correspondence. In the event an objection to the proposed sale is received within five (5) business days of the date the notice is served, the Debtor would not proceed with the sale or other disposition except pursuant to an order of the Court, unless the objection is otherwise resolved among the parties.

b. Abandonment of Burdensome Assets With a Value of \$25,000 or Less. Where the Debtor, in consultation with the Secured Parties and the Committee determines that it is in the best interest of the estate to dispose of assets with a value of \$25,000 or less where the carrying costs associated with continued ownership of such assets and the cost of their disposition exceed any consideration that the Debtor could expect to receive from the sale of such assets, the Debtor requests that it be authorized to abandon such assets without further Court order upon five (5) business days written notice to the Noticing Parties. The notice of the abandonment to the Noticing Parties may be effectuated by facsimile transmission or other written correspondence. In the event an objection to the proposed abandonment is received within five (5) business days of the date the notice is served, the Debtor would not proceed with the abandonment except pursuant to an order of the Court, unless the objection is otherwise resolved among the parties.

The foregoing procedures would not affect Court authorization for the sale or other disposition of assets outside the ordinary course of business where the value of such assets, per item, is in excess of \$25,000. The Debtor shall continue to seek Court authorization for sale or other disposition of such assets after a regular noticed motion and further Court order pursuant to the applicable sections of the Bankruptcy Code, the Federal Rule of Bankruptcy Procedure, the Local Bankruptcy Rules and prior orders of this Court.

The Debtor believes that the procedures proposed will reduce the administrative costs associated with the administration of the Debtor's estate without prejudice to the rights of creditors, thereby maximizing the value of the estate for the benefit of the Debtor's creditors. Thus, based on good business reasons, the Debtor believes that the Procedures Motion should be approved.

C. Summary of Debtor's Blanket-Lien Secured Obligations

A lien search (conducted on March 5, 2001 on Lexis-Nexis), on assets of the Debtor's bankruptcy was conducted using the following terms: "Zyan Communications", "Internet Express Network", "Internet Express Networks" and "Internet Design Group". No documents were found when the same names were searched in a Lexis-Nexis source library containing judgments liens. As evidenced by the UCC-Financing Statements, the secured creditors with a blanket secured interest in substantially all assets of the bankruptcy are Critical Mass Ventures LLC, George A Hormel II Trust, The RHB Insurance Trust, Breitman Children's Insurance Trust, Breitman Irrevocable Life Insurance Trust (collectively the "Secured Parties").

Following is a summary of how the Secured Parties with a blanket interest in the assets of the estate are listed in the Debtor's Bankruptcy Schedule D:

<u>Creditor</u>	<u>Description of Collateral</u>	<u>Approximate Amount Owed</u>
Critical Mass Ventures LLC 1920 San Vicente Blvd Santa Monica, CA 90402	UCC Financing Statement filed 12/27/99 Instrument No. 9936460033 Loan secured by blanket lien on Debtor's right, title, estate, claim and interest in and to any or all of the Debtor's tangible and intangible assets (including but not limited to intellectual property), and proceeds therefrom.	\$1,725,000.00
The George A Hormel II Trust 6112 Paradise View Dr Paradise Valley, AZ 85253	UCC Financing Statement filed 10/19/00 Instrument No. 0029960130 Convertible Loan dated October 16, 2000 secured by blanket lien on Debtor's right, title, estate, claim and interest in and to any or all of the Debtor's tangible and intangible assets (including but not limited to intellectual property), and proceeds therefrom.	\$507,000.00
The RHB Insurance Trust c/o Brian T Corrigan Esq Corrigan & Morris 201 N Figueroa St #690 Los Angeles, CA 90012	UCC Financing Statement filed 10/16/00 Instrument No. 029960134 Convertible Loan dated October 16, 2000 Loan secured by blanket lien on Debtor's right, title; estate, claim and interest in and to any or all of the Debtor's tangible and intangible assets (including but not limited to intellectual property), and proceeds therefrom.	\$304,000.00
Breitman Children's Insurance Trust c/o Brian T Corrigan Esq Corrigan & Morris 201 N Figueroa St #690 Los Angeles, CA 90012	UCC Financing Statement filed 10/19/00 Instrument No. 0029960127 Convertible Loan dated October 16, 2000 Loan secured by blanket lien on Debtor's right, title, estate, claim and interest in and to any or all of the Debtor's tangible and intangible assets (including but not limited to intellectual property), and proceeds therefrom.	\$102,000.00
Breitman Irrevocable Life Insurance Trust c/o Brian T Corrigan Esq Corrigan & Morris 201 N Figueroa St #690 Los Angeles, CA 90012	UCC Financing Statement filed 10/19/00 Instrument No. 0029960124 Convertible Loan dated October 16, 2000 Loan secured by blanket lien on Debtor's right, title, estate, claim and interest in and to any or all of the Debtor's tangible and intangible assets (including but not limited to intellectual property), and proceeds therefrom.	\$102,000.00

Pursuant to a certain Settlement Agreement approved by the Court at a hearing held on September 26, 2001, the Debtor and the Secured Parties have settled the claims asserted by the Secured Parties against the bankruptcy estate. In brief, the settlement provides that in full and complete satisfaction of all claims asserted by Secured

Parties, the Debtor shall pay the Secured Parties the total sum of \$2,100,000. The Debtor believes that the Secured Parties have or will consent to the Miscellaneous Assets Sale Procedures proposed herein.

D. Resolution of the Nortel - NTFC UCC-Financing Statement

In addition, NTFC Capital Corporation was listed in Scheduled D with regards to a UCC-1 Financing Statement filed on September 19, 2000, Instrument No. 0026460340 (the "NTFC Financing Statement"). The NTFC Financing Statement relates to the alleged lease of certain Shasta Boxes that was never consummated with Nortel Networks, Inc. (the "Alleged Lease"). Pursuant to Court order entered on June 18, 2001, the Debtor was authorized to settle and compromise all claims concerning the equipment under the Alleged Lease and entered into a settlement agreement with Nortel. Pursuant to the Nortel settlement, among other things, the Debtor returned 10 Boxes to Nortel and retained 15 Boxes free of any liens asserted by Nortel and NTFC. The 15 Boxes were then sold to Qwest Communications International, Inc. ("Qwest") for approximately \$1,002,300. Accordingly, the NTFC Financing Statement has been resolved and no assets secured by the NTFC Financing Statement shall be sold pursuant to this Procedures Motion.

E. UCC-Financing Statements Related to Lessors

As evidenced by the UCC-Financing Statements, additional secured parties exist whose collateral consists of miscellaneous leased equipment (the "Lessors"). Following is a list of the Lessors whose collateral consists of miscellaneous equipment leased to the Debtor:

<u>Lessor</u>	<u>Status of Leases</u>
Bancorp Financial Services, Inc	Lease No. 07068 deemed rejected pursuant to Court order entered on August 14, 2001
GE Capital Business Finance, a Division of General Electric Capital Business Asset Funding Corp	Lease No. 060-0002178 deemed rejected pursuant to Court order entered on August 14, 2001
The Manifest Group	Lease Nos. 677613 and 682039 deemed rejected pursuant to Court order entered on August 14, 2001
JDR Capital Corporation (The UCC-1 search from Lexis incorrectly indicates that the secured party/lessor is Internet Design Group, a dba of the Debtor. Internet Design Group was listed as an additional lessee on the UCC-1 Financing Statement and the correct lessor under the UCC-1 is JDR Capital Corporation.)	Lease No. 1581770 deemed rejected pursuant to Court order entered on August 14, 2001.
JDR Capital Corporation	Lease No. 2076210 deemed rejected pursuant to Court order entered on August 13, 2001
Compaq Financial Services Corporation	Lease No. 50000 BCE deemed rejected pursuant to Court order entered on February 14, 2001. Lease No. 569538 (transferred from CC Finance LLC) deemed rejected pursuant to Court order entered on August 13, 2001.

<u>Lessor</u>	<u>Status of Leases</u>
Advanta Leasing	Lease Number 052 5505468-001 deemed rejected pursuant to Court order entered on February 14, 2001. Lease Number 5505468-002 deemed rejected pursuant to Court order entered on August 13, 2001.
First Sierra Financial, Inc.	First Sierra Lease No. 212533/254475 (assigned to Advanta Bank Corp.) deemed rejected pursuant to Court order entered on August 29, 2001
Sunrise Leasing Corporation (Cisco Systems)	Lease Number 72007043 AA deemed rejected pursuant to Court order entered on March 20, 2001. Lease Number 72007043AD deemed rejected pursuant to Court order entered on August 13, 2001.

Although it appears that all equipment leases have been deemed rejected, in the event that it is determined that any of the assets to be sold are the subject of a lease agreement, the Debtor will only conduct a sale of such asset if the Lessor consents to the sale. Where the assets to be sold are subject to lease agreements, the Debtor would assume and assign such related leases and/or executory contracts pursuant to Bankruptcy Code Section 365(a). The buyer must have legal authority to enforce performance under the subject leases as well as any other executory contracts related to equipment purchased by buyers. Likewise, the Lessor parties to the leases and contracts must have a basis for seeking the buyer's performance thereunder. Accordingly, the Debtor requests that the Court approve assumption and assignment of the leases relating to assets sold pursuant to the Miscellaneous Assets Sale Procedures wherein buyers are found and the Lessors consent to the sale. The Debtor believes that the Lessors have or will consent to the Miscellaneous Assets Sale Procedures proposed herein.

F. Good Cause Exists to Grant the Procedures Motion

As a result of developments since the Petition Date, including the Debtor's inability to provision new DSL lines and the fact that numerous of its customers have filed for bankruptcy protection, the Debtor projected that it is spending more money each month than it generated. Accordingly, the only option available to the Debtor is an orderly sale of its operating assets. Thus, the Debtor has determined that it is in the best interest of the estate and creditors that the Debtor sell its remaining assets and is in the process of preparing a liquidating Chapter 11 plan.


The Debtor has worked diligently both before and after the Petition Date to market and sell its business operations and/or its assets. The Debtor has gained much experience and information through this process and believes that advertising the miscellaneous assets for sale to the Debtor's competitors, vendors and other parties which may be interested in purchasing the such assets, will result in highest and best offers for such assets at this time. The Debtor is soliciting potential buyers through direct telephone contact, through marketing correspondence and through free Internet postings. The streamlined sale procedures set forth above will reduce the costs associated with the administration of the Debtor's estate without prejudicing the rights of creditors, thereby maximizing the value of the estate for the benefit of the Debtor's creditors.

Thus, based on the good business reasons, the Debtor believes that the Procedures Motion should be approved. For further information please see the Debtor's Motion for Order Establishing Procedure for the Sale and Other Disposition of Certain Miscellaneous Assets upon Limited Notice and Without Further Order of the Court; Memorandum of Points and Authorities and Declaration of Crosby Haffner in Support Thereof on file with the Clerk of the above-entitled Court which may be reviewed on Monday through Friday from 9:00 A.M. to 4:00 P.M. A copy of the Procedures Motion may be obtained by written request to the Debtor's attorney at the address indicated below.

PLEASE TAKE FURTHER NOTICE, that objections, if any, shall be filed with the Clerk of the above Court located at 300 North Los Angeles Street, Los Angeles, California 90012, with a filed-stamp courtesy copy delivered to the chambers of the Honorable Kathleen P. March, United States Bankruptcy Judge, and a copy served upon Marshack Shulman Hodges & Bastian LLP to the attention of James C. Bastian, Jr., 26632 Towne Centre, Suite 300, Foothill Ranch, California 92610 and the Office of the United States Trustee, 221 North Figueroa, Suite 800, Los Angeles, California 90012, no later than fourteen (14) days prior to the scheduled hearing. Failure to file a timely response may be deemed as consent to the relief requested in the Motion. **SEE, LOCAL BANKRUPTCY RULE 9013-1(a)(7).**

Dated: October 1, 2001

James C. Bastian, Jr. - Bar No. 175415
Mark Bradshaw - Bar No. 192540
MARSHACK SHULMAN HODGES & BASTIAN LLP
26632 Towne Centre, Suite 300
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James C. Bastian, Jr.
Mark Bradshaw
Attorneys for the Debtor and
Debtor in Possession Zyan Communications, Inc.,
a Delaware corporation

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the City of Foothill Ranch, County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is 26632 Towne Centre, Suite 300, Foothill Ranch, California 92610.

On October 8, 2001, I served the documents named below on the parties in this Action as follows:

DOCUMENT(S) SERVED: **NOTICE OF HEARING ON DEBTOR'S MOTION FOR ORDER ESTABLISHING PROCEDURE FOR THE SALE AND OTHER DISPOSITION OF CERTAIN MISCELLANEOUS ASSETS UPON LIMITED NOTICE AND WITHOUT FURTHER ORDER OF THE COURT**

SERVED UPON: **SEE THE ATTACHED SERVICE LIST**

- [X] (BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Foothill Ranch, California. I am readily familiar with the practice of Marshack Shulman Hodges & Bastian LLP for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- [] (BY FACSIMILE) I delivered to an authorized facsimile service company the above-referenced document and facsimile cover sheets to be transmitted immediately. Pursuant to C.R.C. 2009(i), I either caused, or had someone cause, the transmitting machine to properly transmit the attached documents to the facsimile numbers shown on the service list. A proof of service signed by the authorized facsimile service company will be filed forthwith.
- [] (BY FACSIMILE) The above-referenced document was transmitted by facsimile transmission and the transmission was reported as completed and without error. Pursuant to C.R.C. 2009(i), I either caused, or had someone cause, the transmitting machine to properly transmit the attached documents to the facsimile numbers shown on the service list.
- [] (BY FEDERAL EXPRESS) I am readily familiar with the practice of Marshack Shulman Hodges & Bastian LLP for collection and processing of documents for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by Federal Express for overnight delivery.
- [] (BY PERSONAL SERVICE) I delivered to an authorized courier or driver authorized by ASAP Corporate Service to receive documents to be delivered on the same date. A proof of service signed by the authorized courier will be filed forthwith.
- [] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- [X] (FEDERAL) I declare that I am employed in the office of a member of the bar of this court, at whose direction this service was made.

Executed on October 8, 2001, at Foothill Ranch, California.


Monte E. Clapp